



EXECUTIVE CHAMBERS

HONOLULU

May 14, 1974

JOHN A. BURNS
GOVERNOR

Mr. Paul DeFalco, Jr.
Regional Administrator
U. S. Environmental Protection Agency
Region IX
100 California Street
San Francisco, California 94111

Dear Mr. DeFalco:

Pursuant to Section 402(b) of the Federal Water Pollution Control Act Amendments of 1972, PL 92-500, authority to the State of Hawaii to administer the National Pollutant Discharge Elimination System is hereby requested.

All documents which have been submitted to your agency by the Department of Health and the Attorney General's Office pursuant to State authorization to implement the NPDES program have my approval.

Your assistance in our efforts to administer our own permit program for discharges in navigable waters would be greatly appreciated.

With warm personal regards, I remain,

Sincerely,

GEORGE R. ARIYOSHI
Acting Governor

cc: EPA, Hawaii



AUG 5 1974

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
100 CALIFORNIA STREET
SAN FRANCISCO, CALIFORNIA 94111

JUL 31 1974

Dr. Henri P. Minette
Deputy Director for Environmental Health
Hawaii State Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801

Dear Dr. Minette:

We have reviewed the preliminary draft application for NPDES program approval transmitted by your letter of July 18, 1974, and find that it is quite adequate in all major respects.

Our review has generated some staff comments which are enclosed for your consideration in refining your application for formal submittal by the Governor. One of the points raised in those comments ought to be given particular attention, i.e., the most efficient use of Program Analyst shown in the Staff Services Office.

We would strongly recommend that this individual be assigned responsibility for all administrative handling of permit applications, public notices, fact sheets, draft permits, final permits, and associated documents, such handling to include logging, maintenance of permit files and mailing lists, program statistics, reporting, and related activities. We have found by experience that the proper handling of these myriad administrative details is the key to successful operation of the NPDES program, a program which is estimated to generate approximately 2,000 pieces of paper for each permit issued. It would be an error of major proportions to assign these functions to technical staff members as well as a misuse of limited technical resources. I would urge, therefore, that you closely scrutinize this area of program operations.

We are now making some revisions to the Memorandum of Understanding and hope to send you what we consider to be the final version on or about August 15, 1974.

The only necessary additions to your preliminary draft application that occur to us at this time are the following:

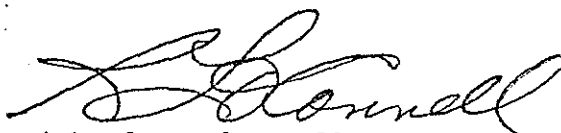
1. Supplementary Attorney General's Opinion on Sec 342-7, HRS, and
2. Proposed amendments to Chapter 37-A and a schedule for their adoption. We have discussed both of these matters with your staff

and with Mr. Robert Taylor of the Attorney General's Office and know of no remaining problems regarding them.

We will be actively pursuing the subject of IPA assignees in the coming weeks and will keep you advised of our progress.

Please let me know if you have questions regarding any of this and when you now expect to submit your formal application for program approval.

Sincerely,



Richard L. O'Connell
Director, Enforcement Division

cc: Dr. R. Marland, Director
Office of Env. Qual. Control
PIO

EPA Staff Comments on
Hawaii Preliminary Application
for NPDES Program Approval

1. To the extent that an IPA Program Analyst will be utilized for ADP purposes, a description of how such ADP system will fit into the overall process should be described.
2. The organizational location of the lab support personnel is not clear.
3. The flow chart will need revision when the Memo of Understanding is made final. At that time, the flow chart should accurately reflect MOU procedures. At this time, the flow chart requires modification as follows:
 - a. The public notice and fact sheet are to be sent to the entire mailing list.
 - b. The application and draft permit should be mailed to concerned Federal agencies prior to public notice, upon request.
 - c. Notice of public hearing should also go to the entire mailing list.
 - d. The decision to hold a public hearing, or not, and the sequence of actions following a hearing should be clarified.
 - e. The flow chart should clearly show the opportunity for Regional Administrator's objection before the permit becomes effective.
4. The monthly report of progress should be broken down by major and minor discharges and categorized into industrial, municipal, and agricultural.
5. Addition of an "S" to the NPDES number, in order to identify State issued permits, will not be accepted by the GPSF data file. We do not object to addition of an "S" but that letter can never be used for ADP purposes.
6. Functional Descriptions of organizational units still do not specify NPDES program responsibilities. (It has been noted that there is an indication of the jobs to be performed, by the two NPDES oriented sections, in the list of functions assigned to personnel as shown in Section IV.)
7. The engineers working in permit preparation have too much clerical and administrative work assigned for effective operation.

8. According to the text of Section VII C(1), attachment 5 should include a list of nonfilers. These are either not included or not so identified.
9. The list entitled "State Permit Significant Discharges (not on NPDES list)" (Attachment 5) needs further explanation. How does this relate to the "Significant Discharges" and the "NPDES Significant Discharges for State of Hawaii" lists?



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX
100 CALIFORNIA STREET
SAN FRANCISCO, CALIFORNIA 94111

Walter B. Quisenberry, M.D.
Director of Health
Hawaii Department of Health
P.O.Box 3378
Honolulu, HI 96801


Dear Dr. Quisenberry:

This is in response to the request for NPDES program approval submitted with your letter of May 9, 1974, and the Acting Governor's letter dated May 14, 1974.

We have reviewed your request and have determined that it does not constitute a "full and complete description" of your program. The enclosed analysis has been prepared to assist you in revising your submittal so as to make it complete. In addition Mr. Richard L. O'Connell, Director of our Enforcement Division, and other EPA representatives will be in Honolulu on June 18th and 19th to provide further assistance to your staff in the preparation of a complete and, hopefully, approvable request for NPDES program approval.

We will look forward to receiving your revised and complete request soon after that meeting.

Sincerely,


Paul De Falco, Jr.
Regional Administrator

Enclosure:

Analysis

cc:

Richard E. Marland

RECEIVED
OFFICE OF THE DIRECTOR
DEPT. OF HEALTH
1974 JUN 7 AM 7 55
BY

REVIEW FOR COMPLETENESS OF
STATE OF HAWAII NPDES PERMIT PROGRAM SUBMISSION
dated May 14, 1974

Section 402(b) of the Federal Water Pollution Control Act (FWPCA) requires the State to submit to the Administrator a full and complete description of the program it proposes to establish under State law; Section 402(c) requires that the State program conform with guidelines issued under Section 304(h)(2) of the Act (40 CFR 124). Additional guidance as to the content of the program description is outlined in Part B of "Instructions Environmental Protection Agency Procedures for the Receipt and Review of State Permit Program Submission for Participation in the National Pollutant Discharge Elimination System under Section 402 of the Federal Water Pollution Control Act."

The State of Hawaii submittal, to date, includes the following elements:-

- (1) NPDES Permit Processing Flow Chart
- (2) Manpower to Implement NPDES
- (3) Available Funds to Implement NPDES
- (4) Estimated Costs for Implementing NPDES
- (5) Inventory of Discharges (Municipal, Industrial, Agricultural)
- (6) Proposed Organization Charts and Function Statements for the Environmental Health Division
- (7) Governor's Request for NPDES Permit Program Approval
- (8) Attorney General's Statement
- (9) State Water Pollution Control Regulation (Chapter 37 of Public Health Regulations, Department of Health)

The application for program approval should be a self-sufficient document which upon review by a concerned person will enable him to comment intelligently at the public hearing as to his views on the appropriateness of program approval by the Administrator.

The program approval submittal requires a full and complete description of the program the State proposes to operate. The program description must include the following functions and must specify the organizational unit responsible for the execution of the functions. Organization charts, unit functional statements, manpower and funding information, priorities for permit issuance, data management, and permit processing charts should be used, in the program description, to more completely describe the program operation.

A. Permit Application Management

1. Distribution of program information and permit application requirements (attach representative form letters)

2. Receipt of applications

(a) Review for completeness and determination of need for additional information (attach form letters)

(b) Application accounting

(c) Financial management of filing fees

(d) Acknowledgement to the applicant of receipt of completed application (attach form letters)

(e) Entry of application data into GPSF

(f) Provision for security of classified information

(g) Procedures for obtaining legal interpretations of permit application requirements

(h) Accomplishment plan

(1) Reissuance of EPA-issued NPDES permits

(2) High priority applications, such as new sources, major dischargers, and dischargers located in priority basins.

- (3) Revisions to permits
- (4) Action on outstanding State permits
- (i) Procedures to ensure compliance of applicants with the State environmental quality act
- 3. Identification of dischargers who have failed to apply (non-filers)
 - (a) Procedure for non-filer accounting
 - (b) Notification of filing requirements (attach form letters, including first and second notification letters)
 - (c) Verification of discharge
 - (d) Referral of non-filer for appropriate legal action

B. Development of Draft Permits

- 1. General conditions (attach standard conditions)
- 2. Special conditions (attach example conditions)
 - (a) Effluent limitations
 - (1) Interim
 - (2) Final
 - (b) Monitoring requirements (attach guidelines)
 - (c) Implementation schedule
 - (d) Reporting requirements
 - (e) Other special conditions
- 3. Field inspection of permit applicants' facilities (as needed)
- 4. Maintenance of expertise on guidelines for BPCTCA, BATEA, BADCT, pretreatment, toxic standards, etc.

5. Internal review of draft permit
 - (a) Waste load allocation and water quality standards
 - (b) Basin plans
 - (c) Review of permit conditions for legal content
6. Review of draft permit by EPA
7. Review of draft permit with applicant

C. Public Notice of Proposed Permit

1. Preparation of public notice (attach standard format)
2. Mailing lists for other State agencies, other Federal agencies, local agencies, and interested persons
3. Fact sheet (attach example)
4. Review of comment
5. Re-notice procedure, if substantive change in permit results from public notice (attach criteria for determining substantive change)
6. Schedule public hearing if significant public interest is expressed

D. Public Hearing

1. Define criteria for determining need for public hearing
2. Public notice of public hearing (attach example)
3. Mailing lists

E. Permit Issuance

1. Internal review and concurrence

2. Procedure for obtaining concurrence by EPA, if required
3. Notification and distribution of issued permit
4. Entry of permit conditions into GPSF
5. Procedures for appeal of permit conditions

F. Compliance Monitoring of Permit

1. Review of compliance with permit conditions for reporting, effluent limitations, implementation schedule, and other conditions (attach check lists and copy of monitoring report forms)
2. Provision for data input to GPSF
3. Compliance monitoring of discharge
 - (a) Site inspection
 - (b) Effluent sampling and analysis (including field and laboratory equipment and capability available)
 - (c) Data input to GPSF
4. Notification of permittee of non-compliance (Attach guidelines and standard letters)
5. Verification of non-compliance
6. Enforcement guidelines identifying appropriate actions according to severity of non-compliance

G. Enforcement Procedures for Non-Compliance

1. Procedures for Case Development (including legal assistance)
2. Procedures for Case Referral (include any Memos of agreement with Office of Attorney General or guidelines issued by that office)

H. Federal Facilities

1. Procedures for review and comment on draft permits prepared by EPA
2. Compliance monitoring procedures for federal facilities, in cooperation with EPA.
3. Procedure for referral of permit violation to EPA.

Manpower to Implement NPDES

1. Specify organizational unit for each position.
2. Identify vacancies and dates when vacancies will be filled.
3. Upon receiving NPDES permit program approval, what impact will assignment of these staff to NPDES have on other programs?
4. Manpower assigned to NPDES permit issuance or compliance does not provide for staffing at supervisory level.
5. Pay scales appear to be inadequate and may interfere with obtaining and retaining qualified professional staff.
6. Three non-professional man-years distributed among 9 individuals is inadequate for inspections, sampling, review of self monitoring data, non-filer investigations and case preparation.
7. Clerical support of 1.5 people will be inadequate for issuing outstanding permits and reissuance of EPA permits. No clerical support is shown in the Pollution Investigation and Enforcement Branch.
8. No evidence is presented that indicates staff have sufficient expertise and experience as required by 40 CFR 124.91.

9. The need for man-power, assigned to the Department of Health under the Intergovernmental Personnel Act (IPA), and the assignment of these staff should be shown.

Functional Statements

1. Present functional statements do not include expanded responsibilities of the NPDES permit program. They should be revised to provide for operation of the NPDES permit program.
2. Functional statements should clearly indicate organizational units responsible for specific functions of the NPDES permit program.
3. Functional statements should define the relationship between the Governor, the Director of the Department of Health, and any other State agencies having responsibilities for water quality management and/or water pollution control.

Permit Processing Flow Charts

The chart should be expanded to more fully show the inter-relationship of the functions in permit application processing, issuance, and compliance management.

Members of Boards Approving NPDES Permit Issuances

To preclude conflict of interest, in accord with 40 CFR 124.94, names of Board members, or members of authorities having similar responsibilities for approval of permit issuance, should be identified and certified as to compliance. A negative declaration may be appropriate.

Statute and Regulations

The submittal, to be complete, must include three copies of all applicable State statutes and regulations.

Planning

Include evidence of EPA approval of States continuing planning process (section 303e FWPCA).

Other

1. Several functions, outlined previously, require the entry of data into the General Point Source File (GPSF), also referred to as the National Data Bank. The software is substantially completed and computer capacity is available for data management, through EPA. The use of this type of support capability is essential to the compliance management function, in consideration of the large amount of information which will be received via the NPDES permits. The State must have a data management capability for entry and retrieval of data, either directly by State terminals or via EPA operated terminals.
2. Laboratory program
 - a. Describe program function and capability in terms of analytical capability and capacity.
 - b. Define procurement requirements and indicate availability of resources needed to purchase equipment for laboratory and field monitoring support.
3. Accomplishment plan
 - a. Define general six-month work plan.
 - b. Develop procedures for monthly commitment and progress reporting:
 - (1) Permit issuances and re-issuances
 - (2) Compliance monitoring evaluations
 - (3) Site surveys (walk-throughs)
 - c. Progress reporting
 - (1) Report of monthly accomplishments
 - (2) Development of monthly commitment for succeeding month
 - (3) Quarterly non-compliance report [40 CFR 124.44(d)]
 - d. Quarterly up-date of six-month plan



EXECUTIVE CHAMBERS

HONOLULU

May 14, 1974

BY _____

JOHN A. BURNS
GOVERNOR

Mr. Paul DeFalco, Jr.
Regional Administrator
U. S. Environmental Protection Agency
Region IX
100 California Street
San Francisco, California 94111

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Your assistance in our efforts to administer our own permit program for discharges in navigable waters would be greatly appreciated.

With warm personal regards, I remain,

Sincerely,

George R. Ariyoshi
GEORGE R. ARIYOSHI
Acting Governor

cc: EPA, Hawaii

✓ cc: Dr. Quisenberry

JOHN A. BURNS
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HAWAII 96801

May 14, 1974

WALTER B. QUISENBERRY, M.P.H., M.D.
DIRECTOR OF HEALTH

WILBUR S. LUMMIS JR., M.S., M.D.
DEPUTY DIRECTOR OF HEALTH

RALPH B. BERRY, M.P.H., M.D.
DEPUTY DIRECTOR OF HEALTH

HENRI P. MINETTE, M.P.H., DR.P.H.
DEPUTY DIRECTOR OF HEALTH

In reply, please refer to:
File: EPHS-PTR

To: The Honorable George R. Ariyoshi
Acting Governor of Hawaii

From: Director of Health

Subject: Attached Letter to Mr. Paul DeFalco, Regional Administrator,
U. S. Environmental Protection Agency, Region IX, San Francisco,
California

Pursuant to Section 402 (b) of the Federal Water Pollution Control Act Amendments of 1972, PL 92-500, the Governor of each State desiring to administer its own permit program must formally request authority to implement the National Pollutant Discharge Elimination System (NPDES).

The NPDES is currently being administered by the U. S. Environmental Protection Agency. Consequently, there is presently a federal and a state wastewater discharge permit program in operation. State authority to administer the NPDES will not only result in one permit program but will place the primary responsibility of issuance and enforcement of the wastewater discharge permit upon the State. The State would directly specify effluent requirements and pollution abatement schedules and enforce the issued permits to local discharges rather than subject them to direct actions on the part of the Environmental Protection Agency.

The Department of Health with assistance with the Attorney General's Office has finally been able to develop all documents required for participation in the NPDES including the amendments to our regulations, Chapter 37, Water Pollution Control, and Chapter 37-A, Water Quality Standards, which you signed on March 6, 1974. The documents as listed below are attached for your review.

Attachment #1 -- Chapter 37, Water Pollution Control
Attachment #2 -- Chapter 37-A, Water Quality Standards
Attachment #3 -- Attorney General's Statement of Legal
Authority to Administer NPDES

- Attachment #4 -- Memorandum of Agreement between the Department of Health and the U. S. Environmental Protection Agency
- Attachment #5 -- Manpower to Implement NPDES
- Attachment #6 -- Estimated Costs for Implementing NPDES
- Attachment #7 -- Available Funds to Implement NPDES
- Attachment #8 -- Lists of Wastewater Dischargers
- Attachment #9 -- NPDES Permit Processing Flowchart

WALTER B. QUISENBERRY, M.D.

Attachments